

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 12/9/2020
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K & S PRODUCE, INC.,

Plaintiff,

1:20-cv-08786-GHW

-against-

ORDER100 BROAD STREET, LLC a/k/a ESSEN FOOD,
ESSEN22 LLC a/k/a ESSEN FOOD, JOHN BYUN,
CHONG WON BYUN, and WILLIAM BYUN,
individually and in any corporate capacity,

Defendants.

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GREGORY H. WOODS, United States District Judge:

On December 8, 2021, the Court held a hearing to discuss the October 27, 2021 motion to vacate default judgment filed by Defendants 100 Broad Street and Chon Won Byun. Dkt. No. 45. For the reasons articulated on the record during that conference, the Court will hold an evidentiary hearing on the motion on January 24, 2022 (the “Evidentiary Hearing”). Regarding the Evidentiary Hearing, the Court orders the following:

- **Hearing Date:** The Evidentiary Hearing will be held on January 24, 2022 at 9:00 a.m. in Courtroom 12C of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, New York, 10007. Pursuant to the Southern District of New York’s COVID-19 protocols, all attendees and participants in the Evidentiary Hearing will be required to wear face masks at all times.¹ Should the parties object to conducting the Evidentiary Hearing under these conditions, they may request that the Evidentiary Hearing take place remotely. If they do so, they should propose a videoconferencing platform over

¹ During the examination of any witness, the witness and counsel conducting the examination may be permitted to be unmasked if they certify that they are fully vaccinated.

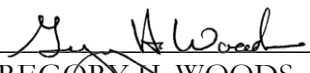
which the Evidentiary Hearing should take place. Defendants will bear the cost of the use of any such platform. Such a request must be submitted to the Court no later than December 15, 2021.

- **Scope of the Hearing:** The purpose of the evidentiary hearing is to determine issues of fact related to Plaintiff's service of its complaint—namely, whether service was effectuated on Mr. Byun so as to establish personal jurisdiction. Should the parties wish to expand the scope of the Evidentiary Hearing beyond that issue, they should make an application to the Court by letter no later than December 15, 2021. That application should describe any such issues and provide legal authority establishing the Court's ability to consider those issues at the Evidentiary Hearing.

- **Hearing Materials:** The parties are ordered to provide to opposing counsel and the Court the following materials, as further described in the Court's Individual Rules of Practice in Civil Cases ("Individual Rules"), no later than January 14, 2022: (1) the party's documentary exhibits, *see* Individual Rule 5(B)(ii); (2) proposed findings of fact and conclusions of law, *see* Individual Rule 5(D)(i); (3) direct testimony by affidavit, *see* Individual Rule 5(D)(ii); and (4) a pretrial memorandum of law; *see* Individual Rule 5(D)(iii). The parties should submit their documentary exhibits and direct testimony by affidavit to the Court via email and also send courtesy copies stored on a USB drive and printed in binders to the Court. The parties should file the remainder of the materials on the public docket via ECF.

SO ORDERED.

Dated: December 9, 2021
New York, New York



GREGORY B. WOODS
United States District Judge